IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Crl.MC.No. 3306 of 2007()

CC.172/2004 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED:

NAVIS,AGED 67 YEARS, S/O. LEONS
PEYOLI HOUSE, NEAR PALACHUVADU,
TRIKKAKARA,VAZHAKKALA VILLAGE.

BY ADV. SRI.BABU CHERUKARA
SRI.S.RUSSEL

RESPONDENTS:

1. **STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM.**

2. **SUB INSPECTOR OF POLICE CENTRAL POLICE STATION ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No.3306 Of 2007

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Dated this the 30th day of October, 2007

ORDER

Petitioner faces indictment in a prosecution for the offences punishable, inter alia, under Sections 409 and 420 I.P.C. Final report has already been filed. Cognizance has been taken. The calender case was registered as early as in 2004. The matter continues to be pending. The petitioner, though he was enlarged on bail at the crime stage, has not entered appearance before the learned Magistrate. The learned Magistrate has issued coercive processes against the petitioner. Such coercive processes are chasing the petitioner now.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilflul. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, appropriate directions may be issued under 482 Cr.P.C, prays the learned counsel for the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE